

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Attorney Docket No. 15970US01

In the Application of:

Martin Morris

U.S. Serial No.: 09/945,200

Filed: August 30, 2001

For: METHOD AND APPARATUS FOR
RANGE EXTENSION OF LOW-
POWER WIRELESS
COMMUNICATION LINKS

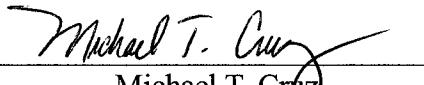
Examiner: Kevin Michael Burd

Group Art Unit: 2631

Confirmation No.: 4498

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I hereby certify that this correspondence is being transmitted via EFS-Web to the United States Patent and Trademark Office on April 2, 2007.



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REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is a timely filed Reply Brief in response to the Examiner's Answer mailed February 1, 2007. The deadline for filing a timely Reply Brief is Monday, April 2, 2007 since April 1, 2007 falls on a Sunday.

REPLY TO EXAMINER'S ANSWER

Appellant respectfully requests that the Board fully consider the Appeal Brief filed on July 3, 2006, the Amended Appeal Brief filed on August 24, 2006, and the Reply Brief filed on December 5, 2006 in addition to the present Reply Brief filed on April 2, 2007.

It is respectfully noted that the Examiner did not address each and every issue raised in the Reply Brief filed on December 5, 2006. It appears that the Examiner only fixated on the scope of the application's alleged prior art and ignored all other issues raised in the Reply Brief filed on December 5, 2006. The Examiner is encouraged to address these issues.

Furthermore, Appellant is quite concerned that the discussions may be losing sight of the forest in view of the trees.

Claim 1 recites, in part, "wherein an access code portion of outgoing transmissions sent by the wireless communications device is reserved to notify a second wireless communications device that the outgoing transmissions have an increased level of error-correcting coding".

Neither Haartsen, Ho nor the alleged disclosure of prior art ("ADOPA") teaches reserving an access code portion to notify a second wireless communications device of an increased level of error-correcting coding.

Recall, the Examiner is alleging that it would have been obvious to use a DIAC to accomplish this.

As a courtesy the ADOPA is reproduced herein: According to the Bluetooth specification, *DIACs are specially chosen to tolerate a higher bit error rate than a body of a message*, such that they can be detected beyond a range at which a Bluetooth transmission would normally be corrupted.

On its face, the ADOPA teaches that DIACs, *instead* of messages, will tolerate a higher bit error rate. Conversely, messages, but not DIACs, will be corrupted. It seems counterintuitive to be discussing communications devices when the Examiner is relying on the ADOPA which teaches that messages will be corrupted.

DIAC stands for dedicated Inquiry access code. As merely background, an Inquiry access code is typically used during an Inquiry state of a device to discover other devices. Subsequent states in the system may include, for example, Inquiry Scan state, Page state, Page Scan state and then a Connection state. So the Inquiry state is many states before, for example, the Connection state.

The Examiner is not proposing using the DIAC during the Inquiry state to merely discover other devices. The Examiner is proposing that it would have been obvious, contrary to the Bluetooth standard, to use the DIAC outside the Inquiry state. It is respectfully submitted that, in view of the accepted standard (e.g., the Bluetooth standard), one of ordinary skill in the art would have used the DIAC during the Inquiry state to merely discover other devices.

Recall, the Examiner has fixated on the ADOPA that DIACs tolerate a higher bit error rate. However, the higher bit error rate is the reason that the Bluetooth standard uses DIACs for inquiry in the Inquiry state to discover other devices. This is no teaching from the ADOPA, Haartsen or Ho to use DIACs for anything but the Inquiry state to discover other devices.

To use an Inquiry access code, as suggested by the Examiner, would be counter to the use by one of ordinary skill in the art as evidenced by the Bluetooth specification, which is an approved industry standard and which has been accepted by many, many companies. M.P.E.P. § 2145(X)(D)(3) states, in part, that "proceeding contrary to accepted wisdom in the art is evidence of nonobviousness".

Recall also, the Examiner is alleging that it would have been obvious to rip out the FEC value in the PHY header of Ho and insert it into a DIAC. One of ordinary skill in

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the art would disagree just by reading Ho and because of what Ho represents. According to Ho, Ho represents those devices in compliance with IEEE Std 802.15.1. See, e.g., Ho at paragraph [0017]. Thus, Ho represents the understanding of the industry standard which has been approved and accepted by many, many companies. Industry standards represent accepted wisdom under M.P.E.P. § 2145(X)(D)(3). Thus, it would not have been obvious for one of ordinary skill in the art to proceed contrary to the industry standard (e.g., IEEE Std 802.15.1). As M.P.E.P. § 2145(X)(D)(3) states, in part, "proceeding contrary to accepted wisdom in the art is evidence of nonobviousness".

Ho illustrates the accepted wisdom of IEEE Std 802.15.1 by placing the FEC value in the PHY header. On the other hand, the Examiner proceeds contrary to accepted wisdom by attempting to rip out the FEC value of the PHY header and insert it in a DIAC that is used in the Inquiry state to discover other devices. It is respectfully submitted that this is evidence of nonobviousness and not evidence of obviousness.

The same or similar arguments made with respect to claim 1 may be made, if appropriate, with respect to at least some of the other claims on appeal.

For at least the foregoing reasons and reasons set forth in the Appeal Brief filed on July 3, 2006, the Amended Appeal Brief filed on August 24, 2006, and the Reply Brief filed on December 5, 2006, claims 1-6, 8-15, 17-21 and 24-33 are believed to be patentable over the alleged prior art of record.

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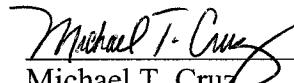
Conclusion

Reversal of the Examiner's rejection of claims 1-6, 8-15, 17-21 and 24-33 and issuance of a patent on the application is therefore respectfully requested.

The Commissioner is hereby authorized to charge any additional fees, any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Dated: April 2, 2007

Respectfully submitted,



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